

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: C.R. BARD, INC., PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION MDL NO. 2187

IN RE: AMERICAN MEDICAL SYSTEMS, INC.,
PELVIC REPAIR SYSTEM PRODUCTS LIABILITY
LITIGATION MDL NO. 2325

IN RE: BOSTON SCIENTIFIC, PELVIC REPAIR
SYSTEM PRODUCTS LIABILITY LITIGATION MDL NO. 2326

IN RE: ETHICON, INC., PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION MDL NO. 2327

IN RE: COLOPLAST PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION MDL NO. 2387

IN RE: COOK MEDICAL, INC., PELVIC REPAIR
SYSTEM PRODUCTS LIABILITY LITIGATION MDL NO. 2440

IN RE: NEOMEDIC PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION MDL NO. 2511

THIS DOCUMENT RELATES TO ALL CASES

ANDERSON LAW OFFICE'S MOTION FOR LEAVE TO FILE TWENTY PAGE REPLY

Anderson Law Offices ("ALO") requests that this Court grant leave to file a Reply of 20 pages or less on or before April 18, 2019, in further support of the Objections that were submitted on March 26, 2019. Replies are, of course, traditionally permitted under this court's customary motion practice. *Loc.R.Civ.P. 7.1(a)*. ALO had noted that an additional filing would be necessary in the Response that the firm submitted on April 2, 2019, which did not oppose the request by the Fee and Cost Committee (FCC) to file a 75-page "Omnibus Response." It is anticipated that 10 days will be needed to research and draft this Reply.¹

As ALO had predicted, the Omnibus Response furnishes the FCC's first explanation for a number of vague positions that had been asserted during the common benefit fee allocation process. Particularly, the FCC bolstered the importance of work that FCC member firms put into preparing cases for trial waves while minimizing ALO's significant contribution toward this same effort. *Omnibus Response*, p. 38. Likewise, the FCC's prior refrain that ALO had located and developed vital expert witnesses "in an inefficient manner" has now been explained somewhat; it is hard for the FCC members to believe that ALO's staff worked so hard for the common benefit. *Id.*, pp. 37-39. And the FCC has argued that this Court should consider the reasons that the recorded time had been cut from ALO's submission as a basis to devalue the hours that were accepted as for the common benefit. *Id.*, pp. 37-39. In support of their new arguments, the FCC has divulged some information for the first time about its members' own individual time and expense submissions and the individual time and expense submissions of the objectors,

¹ The attorneys who will be primarily responsible for preparing the Reply are presently required to devote substantial time and attention to other pressing matters including *Jones v. The Cleveland Clinic Foundation*, Ohio Sup. Ct. No. 2019-0390; *Lycan v. City of Cleveland*, Ohio 8th Dist. Cuyahoga Nos. CA-18-107700 and CA-18-107737; and *United States v. Osborne*, 6th Cir. No. 19-3182.

although it had previously insisted that this information was confidential or privileged. *Id.*, pp. 13-15, 18, 28-33, 37-39, 51, 55, 58, 65-69.

It was impossible for ALO to foresee these imaginative rationalizations when the Objections were previously drafted. A Reply will be the only opportunity to contest the arguments now offered by the FCC for the very first time and to preserve certain issues if an appeal is necessary. Basic principles of due process therefore require that the firm be afforded a full and fair opportunity to respond with a Reply of 20 pages or less.

CONCLUSION

In order to ensure that ALO is afforded its fundamental constitutional right for an opportunity to be heard, leave should be granted for a Reply of 20 pages or less to be filed on or before April 18, 2019, in further support of the Objections that have been raised to the common benefit fee allocations that have been proposed.

Respectfully Submitted,

s/Richard L. Gottlieb

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CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2019, the foregoing **Motion** was filed electronically. Notice of this filing will be sent to all parties by operation of the court's electronic filing system. Parties may access this filing through the court's system.

s/Paul W. Flowers

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